IN THE HIGH COURT OF JUDICATURE AT BILASPUR

(CHHATTISGARH)

SINGLE BENCH

W.P. NO. 1390 /2006

PETITIONER Mohd. Shahabuddin, S/o Shri Mohd. Kamrujama, aged 38 years, R/o Mahamaya road, Ambikapur (C.G.)

Vs

RESPONDENTS -(1) State of chhattisgarh, through Secretary Department of Transport D.K.S. Bhawan Raipur (C.G.)

(2) Secretary, State Transport Authority, Chhattisgarh, Raipur

(3) Secretary, State Transport Authority, Ranchi.

(4) Supritendent of police, Daltenganj (Jharkhand)

(5) Supritendent of police, Ambikapur (C.G.)

(6) Incharge border checkpost, Ramanunjganj (C.G.)

(7) Bihari Prasad, bus operator power house road, Ramanunjganj (C.G.)

(8) Ramprasiddha Singh, bus operator, Kondatarai, Distt.-Raigarh (C.G.)

(9) Rajkishore singh, bus operator, jute mill road, Kabir chowk, Raigarh (C.G.)

(10) Hridyanand Tiwari, bus operator, Namnakala, Ambikapur (C.G.)

(11) Rajendra Singh Chabra, bus operator, Namnakala, Ambikapur (C.G.)

(12) Dhananjay Soni, bus operator, Ramanunjganj (C.G.)

(13) District Transport Officer, Gadwa, (Jharkhand)

(14) Supritendent of police, Gadwa, (Jharkhand)

WRIT PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA

XI-HC-22

(49)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ..... WP 1390/06 ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

21-12-2006

Shri Anand Mohan Tiwari, counsel for the petitioner.

Ku. Dipali Pandey, Panel Lawyer for State/respondents No.1,2, 5 and 6.

Shri Sunil Sahu, counsel for respondent No.4.

None for other respondents.

Heard.

From perusal of the record, it is ostensible that the temporary permits were issued for the period from 01-03-2006 to 31-03-2006 and at the same time, application of the petitioner for temporary permits for the aforesaid period has been turned down by the Transport Authority. Period of those permits and period for which petitioner applied for temporary permits have expired a long back.

Learned counsel for the petitioner contended that though the period has expired, but the petition still survives for decision on the substantial question "whether without there being any inter-state agreement in between the State of Chhattisgarh and Bihar, permits can be issued" ?

Learned counsel for the petitioner placed his reliance on the judgment of High Court of Madhya Pradesh rendered in the matter of **Jhamaklal Balmukund Baser & another Vs. State Transport Authority, Gwalior & others (1990 MPLJ 316)**, judgments of Hon'ble Apex Court rendered in the matter of **Madhya Pradesh State Road Corporation, Bairagarh, Bhopal Vs. B.P. Upadhya, Regional Transport Authority, Raipur & others (1965 MPLJ 838) & Ashwani**

(पीछे देखिये)

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक WP 1390/06 सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Kumar & another Vs. Regional Transport Authority, Bikaner & another (AIR 1999 SC 3888) and contended that without there being existing inter-state route grant of temporary permits are illegal.

In oppugnation, counsel for the State contended that the temporary permits granted by the Authority were subject to counter signature by the State of Bihar, therefore, in absence of agreement to meet the need of the public, temporary permits are permissible in accordance with Section 87 of the Motor Vehicles Act, 1988.

Petitioner in this petition has prayed for grant of following relief :-

> **"For issuance of writ or prohibition restraining the respondents from plying the stage carriages on inter state routes Manendragarh to Daltenganj, Raigarh to Daltenganj, Ambikapur to Daltenganu, Raigarh to Kandi between the State of Chhattisgarh and Jharkhand without counter signature by the State Transport Authority, Jharkhand and on the ground that the grant of stage carriages permits were made without reciprocal agreement and the grant is without jurisdiction being violative of law laid down by the Supreme Court of India. It is also prayed that plying of the buses of the respondents no.6 to 11 on inter state routes without grant of counter signature in collusion with the local police and in-charge of border check post is illegal and without jurisdiction and for that issue/direct the respondents by writ of mandamus to restrain such illegal operation. It is also prayed to direct the respondents no.1 and 2 to execute the reciprocal agreement and accordingly grant the permit to the petitioner. The order of the State Transport Authority, dated nil rejecting the application of the petitioner be also quashed."**

(पीछे देखिये)

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(57)

आदेश पत्रक

मामला क्रमांक WP 1390/06 **सन्** **200**

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

In the instant case, petitioner without invoking jurisdiction of the State Transport Appellate Tribunal (henceforth "the Tribunal"), has directly approached this Court whereas if he was aggrieved by grant or refusal, he should have raised all these questions before the Tribunal, which was competent to hear appeal and revision against the impugned grant and refusal, even otherwise, the relief prayed for cannot be granted as period of all those temporary permits and the period for which temporary permit was sought by the petitioner has already expired.

In the result, the petition deserves to be dismissed and is accordingly dismissed. However, in future, petitioner may, if advised and aggrieved by subsequent grant or refusal, raise all those questions which he has raised herein, before the Tribunal which is competent to hear appeal and revision and also to determine those questions.

Sd/-
V.K. Shrivastava
Judge

Raju

(पीछे देखिये)